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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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BUCHANAN INGERSOLL, P.C.
ONE OXFORD CENTRE, 301 GRANT STREET
20TH FLOOR
PITTSBURGH, PA 15219

EXAMINER

NGUYEN, TAN D

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 02/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/848,101

Applicant(s)

GRUBER ET AL

Examiner

Tan Dean D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/18/04 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 37-45 (method¹), 1-18 (method²), 19-36 (apparatus¹) are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant Admitted Prior Art (or AAPA) in view of RUSSELL et al (US 2002/0178079) or vice versa, and further in view of SANDGREN et al.**

As for Independent claim 37 (method¹), AAPA, as shown on page 2, line 23 to page 3, line 6, discloses a well known relationship between (1) a person being treated or receiving care or treatment (patient), (2) his friends or family and (3) the charitable organization and method of for fundraising for the organization from a friend of the patient (at least 1 of), comprising the steps of:

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(1) Patient being treated in a healthcare facility, i.e. hospital, for some disease, i.e. cancer, patients and friends/family take more personal interest cancer with the hope of finding a cure for cancer for the loved one,

(2) Patients and friends learn more about cancer treatment and any ongoing research to find cures for cancer,

(3) Support facilities that provide cancer treatment and support research to find cures for the disease, identify at least one organization engaged in fundraising to provide cancer treatment and support research to find cures for cancer,

(4) make donations to charitable, non-profit and other organizations that provide such treatment and support such research and development.

Therefore, AAPA fairly teaches the claimed invention (last 2 steps) except for:

(a) provide an access to a private group website allowing the (1) patient, (2) patient's friend or family to communicate with one another, and

(b) asking one or more questions, via the private group website, regarding the preferences and dislikes of an individual accessing the website.

However, as cited in (1) and (2) above, it appears that the patient's family must have asked one or more questions with the patient using telephone or personal contact about the sickness of the patient and received answer in order to come up with steps (2) or (3). Alternatively, it would have been obvious for the patient's family or friend to communicate, ask or question and answer, with the patient about his sickness/disease in order to come up with steps (2), (3) and (4) above. Therefore, it appears that AAPA

teaches the claimed invention except for carrying out steps (a) and (b) using a private group website.

In a similar method for soliciting a charitable donation for an organization engaged in fundraising from at least one of (1) a deceased person, (2) a family or friend of the person, and (3) the organization and method of for fundraising for the organization from at least 1 of a friend of the patient {see [0169]}, RUSSEL et al teaches the method comprising the steps of:

(a) provide an access to a website allowing the (1) patient, (2) patient's friend or family to communicate with one another {see [0107 or 0230 "one destination to efficiently plan, create, store, update and implement specific information for coordinating mourners and communities ...one-stop Internet site, www.VIPtribute.com, or www.Metribute.com, and other activities, messages, gathering information into a single one-stop web site that offers a more convenient forum"}, [0231 "information, wishes, donations"], [0233 "free threaded discussion, free chat area "], [0104 "questions and answer"], [0132 "arrangement dates and times"], Fig. 11, see under "creative interaction", or Fig. 10 see "Bulletin Board Posting (BBS)". Clearly, RUSSEL et al discloses or recommends the communication with one another which includes question and answer regarding preferences and dislikes of the individual accessing the website. Alternatively, it would have been obvious to a person of ordinary skill to modify the process of RUSSEL et al by communication through asking and answering questions regarding preferences and dislikes of the individual accessing the website. It would have been obvious to modify the process of AAPA by including steps (a) and (b) as

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taught by RUSSEL et al to obtain well known benefits of the Internet (vs. conventional telephone) which is more efficient ways to communicate and access information such as availability and cost, see also [0007] of RUSSEL et al.

Vice versa, it would have been obvious to modify the teaching of RUSSEL et al by selecting other type of person, such as person being treated or cared for (patient) as shown in AAPA and overcoming all of the shortage dealing with telephone for communication between parties and gathering information. As for the "planning" for visitation and dealing with the personal information with respect to the person being treated, these are nearly similar with visitation hours or cause of sickness. Moreover, the difference in the type of treated person, patient vs. deceased, is not critical and would have been obvious to a skilled artisan, since the focus is on improving communication between the person and his family or his friend.

The teaching of RUSSEL et al /AAPA fairly discloses the claimed invention except for the type of website, being a private group type.

SANDGREN et al is cited to teach a method and system for providing a secure online communications between registered participants such as a private group website accessible to members only or interactive family communication comprising one or more message boards having information about a particular subject (a particular person) and messages from friends, family and the desired person (see col. 1, lines 5-10, col. 2, lines 47-57, col. 4, lines 15-25, col. 5, lines 12-20, Fig. 3). It would have been obvious to modify the method and system of AAPA/RUSSELL et al or RUSSEL et al /AAPA by including a message board as taught by SANDGREN et al to provide more

(1) private and (2) interactive communications between family or group members which inherently improves the sense of community support for the patient.

As for dep. claim 38 (part of 37), which deals with the type of question related to the patient, this is immaterial modification with respect to the scope of the claimed invention (fundraising campaign), and is fairly taught in AAPA page 2, 3rd paragraph or RUSSEL et al [0169]. Alternatively, the selection of the question varying with person's condition and is considered as optimizing operating conditions or result effective variables and the optimizing of result effective variables is considered as routine experimentation to determine optimum or economically feasible reaction conditions and would have been obvious to the skilled artisan. In re Aller, 105 USPQ 233.

As for dep. claims 39-40 (part of 37), which deals with the message board parameters, i.e. plurality of boards designated for different classes of users, these are immaterial modification in view of the scope of the invention, and are fairly taught in SANDGREN et al col. 4, lines 25-40. Moreover, merely duplication of parts (plurality) for multiple effects type of question is well known and would have been obvious to a skilled artisan. See In re Hazra, 124 UQ 378.

As for dep. claim 41 (part of 37), which deals with the organization parameter, i.e. type such as charitable organization, this is immaterial modification in view of the claimed scope, and is taught in AAPA page 2 or RUSSEL et al [0169].

As for dep. claim 42 (part of 37), which deals with the website parameter, i.e. includes visitation calendar, this is immaterial modification in view of the scope of the claim, and is taught in RUSSEL et al [0132 "arrangement dates and times", 0021

“coordination” and “planning ahead”]. See also Fig. 3 of SANDGREN et al for “calendar”.

As for dep. claim 43 (part of 37), which deals with an editing feature of the website, i.e. updating the schedule, this feature is mentioned in RUSSEL et al [0236] as part of the planning and gathering information. This is also inherently included in the teaching of SANDGREN et al as shown in Fig. 3.

As for dep. claims 44-45 (part of 37), which deals with receiving a pledge and payment for a charity donation, these are fairly taught in AAPA pages 2, 3rd paragraph to page 3, 1st paragraph or in RUSSEL et al [0169].

As for the other similar Independent Method² claim 1 and apparatus¹ claim 19, which basically provide the means for carrying out Independent Method² claim 1, they are rejected for the same rejection as shown in Independent Method¹ claim 37 above. Alternatively, the setting up of a equivalent apparatus sufficient to carry out a method claim is within the skill of the artisan and would have been obvious.

As for dep. claims 2-4 (part of 1) and **dep. claims 20-22** (part of 19), they have similar limitation as in dep. claim 41 above, and are therefore rejected for the same reason set forth in dep. claim 41 above. Note, that the selection of other similar type of charitable organization, such as non-profit or hospital, would have been obvious to a skilled artisan as mere selection of other similar organization to achieve similar results, absent evidence of unexpected results.

As for dep. claims 5-7, 9-15 (part of 1) and dep. claims 23-25, 27-33 (part of 19), they have similar limitation as in dep. claims 39-40 above, and are therefore rejected for the same reason set forth in dep. claims 39-40 above.

As for dep. claim 8 (part of 1) and dep. claim 26 (part of 19), this is shown in SANDGREN et al col. 2, lines 10-15, or col. 5, lines 15-25.

As for dep. claims 16-18 (part of 1) and dep. claims 34-36 (part of 19), they have similar limitation as in dep. claims 43-45 respectively above, and are therefore rejected for the same reason set forth in dep. claims 43-45 above.

Responses to Arguments

4. Applicant's arguments filed 11/18/2004 have been fully considered but they are not persuasive.

Applicant's comment that RUSSEL et al is primarily dealt with "the mourning of pets" is not persuasive in view of the multiple teachings inside the reference of RUSSEL et al wherein dealing with human or individual is cited, see [0230, 0231].

Applicant's argument with respect to the lack of communication or question and answers between the patient and his friend or family in the teachings of RUSSEL et al or SANDGREN et al are not persuasive in view of many teachings with respect to exchanged messages, free threaded discussion or free chat area discussed in RUSSEL et al [0107 or 0230 "one destination to efficiently plan, create, store, update and implement specific information for coordinating mourners and communities ...one-stop Internet site, www.VIPtribute.com, or www.Metribute.com, and other activities, messages, gathering information into a single one-stop web site that offers a more

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convenient forum"], [0231 "information, wishes, donations"], [0233 "free threaded discussion, free chat area "], [0104 "questions and answer"], [0132 "arrangement dates and times"], Fig. 11, see under "creative interaction", or Fig. 10 see "Bulletin Board Posting (BBS)" or SANDGREN et al col. 1, lines 5-10, col. 2, lines 45-55.

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5. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiner. As the official records and applications are located in the clerical section of the examining Tech Center, the clerical personnel can readily provide status information without contacting the examiner. See MPEP 203.08. The Tech Center clerical receptionist number is (703) 308-1113

Or <http://pair-direct@uspto.gov>.

In receiving an Office Action, it becomes apparent that certain documents are missing, e. g. copies of references, Forms PTO 1449, PTO-892, etc., requests for copies should be directed to Tech Center 3600 Customer Service at (703) 306-5771, or e-mail CustomerService3600@uspto.gov .

Any inquiry concerning the merits of the examination of the application should be directed to Dean Tan Nguyen at telephone number (703) 308-2053. My work schedule is normally Monday through Friday from 7:00 am through 4:30 pm.

Should I be unavailable during my normal working hours, my supervisor John Weiss may be reached at (703) 308-2702. The FAX phone numbers for formal communications concerning this application are (703) 305-7687. Informal communications may be made, following a telephone call to the examiner, by an informal FAX number to be given.

Other possibly helpful telephone numbers are:

Allowed Files & Publication	(703) 305-8322
Assignment Branch	(703) 308-9287
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/ 8335
Fee Questions	(703) 305-5125
Intellectual Property Questions	(703) 305-8217
Petitions/Special Programs	(703) 305-9282
Terminal Disclaimers	(703) 305-8408
Information Help Line	1-800-786-9199

dtn


DEAN T. NGUYEN
PRIMARY EXAMINER